

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Iridium Constellation LLC Petition for)	RM-_____
Rulemaking to Promote Expanded Mobile)	
Satellite Service in the Big LEO MSS Band)	
)	
In the Matter of)	
)	
Globalstar, Inc. Petition for Rulemaking)	RM-11685
to Reform the Commission's Regulatory)	
Framework for Terrestrial Use of the)	
Big LEO MSS Band)	

OPPOSITION OF GLOBALSTAR, INC. TO MOTION TO CONSOLIDATE

On February 11, 2013, Iridium Constellation LLC ("Iridium") filed a Petition for Rulemaking and a Motion to Consolidate.¹ Globalstar, Inc. ("Globalstar") hereby opposes Iridium's Motion to Consolidate. The Commission should immediately reject both Iridium's Motion and its Petition without placing either request on public notice. Iridium's Petition is a brazen and unsupported attempt to abscond with almost three megahertz of Big LEO spectrum assigned to and used by Globalstar. The Commission has already examined and re-balanced the Big LEO band plan and there is no basis for revisiting these prior decisions now. Even if the Commission seeks comment on or grants Iridium's Petition for Rulemaking, it should deny Iridium's request to consolidate that proceeding with the rulemaking Globalstar has proposed on Big LEO MSS-terrestrial reform.² Iridium's proposed spectrum grab is irrelevant to reforms that

¹ Motion to Consolidate of Iridium Constellation LLC, RM-11685 (Feb. 11, 2013) ("Iridium Motion"). *See also* Petition for Rulemaking of Iridium Constellation LLC (Feb. 11, 2013) ("Iridium's Petition").

² Petition for Rulemaking of Globalstar, Inc., RM-11685 (Nov. 13, 2012) ("Globalstar Petition").

will enable consumers to benefit from Globalstar's proposed Terrestrial Low-Power Service ("TLPS"). Tying these proceedings together would only delay the delivery of important public interest benefits to the American public.

I. THE COMMISSION SHOULD SUMMARILY DISMISS IRIDIUM'S PETITION FOR RULEMAKING AND ACCOMPANYING MOTION TO CONSOLIDATE

The Commission should summarily dismiss Iridium's Petition for Rulemaking and expedite a proceeding on Big LEO MSS-terrestrial reform. After a four-year long proceeding, the Commission "re-balanced" the Lower Big LEO band (1610-1626.5 MHz) a little over five years ago by re-assigning more than three megahertz of Globalstar's licensed spectrum to Iridium.³ As a result of the Commission's 2007 order, Globalstar's CDMA MSS system now has an exclusive assignment of 7.775 megahertz of Lower Big LEO spectrum at 1610-1617.775 MHz, while Iridium's TDMA MSS system likewise enjoys an exclusive assignment of 7.775 megahertz of Lower Big LEO spectrum at 1618.725-1626.5 MHz. Globalstar and Iridium also share a small segment of Lower Big LEO spectrum (0.95 megahertz) at 1617.775 MHz-1618.725 MHz.⁴ In its 2007 decision, the Commission stated that the new band plan "improves spectrum efficiency" and "provides an equitable distribution of the spectrum between" the two MSS licensees in the band.⁵ The Commission found that the equal division of Lower Big LEO band

³ *Spectrum and Service Rules for Ancillary Terrestrial Components in the 1.6/2.4 GHz Big LEO Bands; Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands*, Second Order on Reconsideration, Second Report and Order, and Notice of Proposed Rulemaking, 22 FCC Rcd 19733 (2007) ("2007 Big LEO Spectrum Sharing Order").

⁴ *Id.* ¶ 8. The Commission's order shifting Big LEO spectrum to Iridium was affirmed by the United States Court of Appeals for the District of Columbia Circuit in 2009. *Globalstar, Inc. v. FCC*, 564 F.3d 476 (D.C. Cir. 2009).

⁵ 2007 Big LEO Spectrum Sharing Order ¶ 1.

spectrum between Globalstar and Iridium would “provide long-term certainty and stability in the Big LEO market.”⁶

Iridium attempts to undercut this long-term certainty and stability by seeking the re-assignment of Globalstar’s remaining Lower Big LEO spectrum above 1616 MHz. The Commission should immediately reject this brazen spectrum grab and dismiss Iridium’s Petition without even placing this filing on public notice. If necessary, Globalstar will provide a comprehensive analysis of the defects of Iridium’s Petition, but it should be clear to the Commission that Iridium’s pleadings provide no support for its proposed annexation of Globalstar’s licensed frequencies. While Iridium offers a cursory review of its services, it fails to present any empirical data demonstrating its spectrum needs or the harm that it will allegedly suffer under the existing band plan. Similarly, Iridium provides no evidence that Globalstar no longer needs its Lower Big LEO spectrum at 1616-1618.725 and will not be harmed by the loss of this capacity. Iridium fails to show that the current division of spectrum is inequitable or identify any other genuine public interest rationale for revisiting the Commission’s 2007 decision. Iridium’s Petition is effectively a late-filed petition for reconsideration of the Commission’s 2007 order, and this baseless, repetitive request “plainly do[es] not warrant consideration by the Commission” and should be summarily dismissed under Section 1.401(e) of the Commission’s rules without further public comment.⁷

⁶ *Id.* ¶ 17.

⁷ 47 C.F.R. § 1.401(e). Under Section 1.403 of the Commission’s rules (47 C.F.R. § 1.403), only those petitions that meet the requirements of Section 1.401 are placed on public notice, and Iridium’s Petition should be dismissed pursuant to the criteria contained in Section 1.401(e). The Commission has made clear that it and its staff “have broad authority under Section 1.401(e) of the Rules to deny petitions for rule making without first obtaining public comment if the petition is moot, repetitive, premature, frivolous or plainly does not warrant consideration by the Commission.” *Application for Review of McKinnon Broadcasting Company*, Memorandum Opinion and Order, 7 FCC Rcd 7554, ¶ 3 n.1 (1992) (affirming denial

Iridium vaguely claims that changed circumstances justify its proposed takeover of Globalstar's spectrum, but developments since 2007 if anything weigh strongly in favor of a shift of Lower Big LEO frequencies *back* to Globalstar. Since then, Globalstar has enjoyed substantial commercial success with its innovative, consumer-oriented "SPOT" family of MSS devices, which operate throughout Globalstar's Lower Big LEO band spectrum at 1610-1617.775 MHz. As Globalstar has described, SPOT devices have played a critical role in the provision of emergency and safety-of-life services to individual consumers beyond terrestrial wireless reach.⁸ In addition, on February 6, 2013, Globalstar completed the launch of its final six second-generation satellites, and these satellites are expected to enter commercial service by this summer.⁹ Once fully operational, Globalstar's second-generation MSS system will support highly reliable, crystal-clear CDMA-quality voice and data satellite services to the more than five billion consumers, public safety personnel, and other customers located within its global footprint. In offering an array of services to customers throughout the world, Globalstar's satellite network will make intensive use of every available megahertz to provide the highest voice quality, fastest truly mobile data speeds, and most affordable service in the MSS industry.

Accordingly, if the Commission initiates a rulemaking proceeding in response to Iridium's Petition, Globalstar will request the return of the Lower Big LEO spectrum that the Commission re-assigned to Iridium in 2007. If necessary, Globalstar will prove that it is more able than Iridium to utilize that additional spectrum for the benefit of the public.

of petition for rulemaking without notice and comment, based on petitioner's failure to provide any convincing evidence or reason to revise longstanding policy on foreign television station broadcasting into the United States).

⁸ See Globalstar Petition at 10-11.

⁹ Press Release, Globalstar, Inc., *Mission Accomplished! Globalstar Announces Successful Fourth Launch of Six Second-Generation Satellites* (Feb. 6, 2013), available at: <<http://www.globalstar.com/en/index.php?cid=7010&pressId=764>>.

II. IRIDIUM’S REQUESTED CONSOLIDATION COULD SIGNIFICANTLY DELAY THE DELIVERY OF SERVICES THAT PROMISE SUBSTANTIAL PUBLIC INTEREST BENEFITS

Even if the Commission decides to reconsider the allocation of spectrum in the Lower Big LEO band, the Commission should deny Iridium’s Motion to Consolidate. Iridium urges the Commission to issue a single Notice of Proposed Rulemaking that addresses not only its own Petition but also Globalstar’s November 2012 Petition seeking fundamental reform of the rules and policies governing terrestrial use of Big LEO spectrum.¹⁰ In its Petition, Globalstar requested that the Commission initiate two separate rulemakings, including (i) a rulemaking on greater terrestrial flexibility in the Upper Big LEO band (2483.5-2500 MHz) that will permit the provision of TLPS and other wireless services in a new “AWS-5” band at 2483.5-2495 MHz,¹¹ and (ii) a second, parallel proceeding regarding terrestrial use of its Lower Big LEO band spectrum (1610-1617.775 MHz) that will focus initially on technical issues relating to GPS.¹²

Iridium provides no valid basis for considering its own Petition and Globalstar’s AWS-5 proposal in the same rulemaking proceeding. These requests involve different portions of the Big LEO band and raise separate and distinct issues. The division of spectrum between Globalstar and Iridium in the Lower Big LEO band will not affect Globalstar’s provision of TLPS at 2473-2495 MHz or other AWS-5 services, and Globalstar’s proposed TLPS will have no effect on the Commission’s spectrum allocation at 1.6 GHz.¹³ Iridium effectively

¹⁰ Iridium Motion at 4-9.

¹¹ As described in its Petition, Globalstar will provide TLPS both in the AWS-5 band and in adjacent unlicensed Industrial, Scientific and Medical (“ISM”) frequencies at 2473-2483.5 MHz. Globalstar Petition at 15-18.

¹² *See, e.g.*, Globalstar Petition at 6.

¹³ While Iridium is correct that the Commission has the discretion to consolidate its rulemakings and other proceedings in some circumstances, the decisions cited by Iridium all

acknowledged this fact in its opposition to Globalstar's Petition; there, Iridium said that it was "tak[ing] no position at this time on the proposal for TLPS in the 2.4 GHz Big LEO spectrum," given that it "does not operate in that spectrum block, and therefore there is no direct interference threat to Iridium if Globalstar's terrestrial proposal is restricted to that band."¹⁴ If the Commission chooses to consider Iridium's Petition, it should address that Iridium request and Globalstar's proposed reforms in the Upper Big LEO band in two separate Notices of Proposed Rulemaking.

If the Commission consolidates any consideration of Iridium's proposal with Globalstar's proposed rulemaking on Upper Big LEO MSS-terrestrial reform, it will delay consumer access to TLPS and the various public interest benefits that this service will generate. The Commission's proceeding to re-balance the Lower Big LEO band was prolonged, beginning with an NPRM in 2003 and not ending until the Commission's November 2007 order establishing the band plan.¹⁵ Re-examining the band plan would be a highly contested and likely lengthy proceeding. Re-opening the Lower Big LEO band plan in a proceeding to consider Upper Big LEO reform would significantly forestall the deployment of terrestrial consumer services.

While such delay would undoubtedly please Iridium from a competitive perspective (and may even be the primary goal of its Petition), it would be directly contrary to the public interest. As the record in RM-11685 demonstrates, Globalstar's proposed AWS-5 services promise rapid

involve proceedings that are much more closely related than the Petitions filed by Globalstar and Iridium. *See* Iridium Motion to Consolidate at 4 nn.12-13.

¹⁴ Opposition of Iridium Constellation LLC, RM-11685, at 6 (Jan. 14, 2013).

¹⁵ *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-band, and the 1.6/2.4 GHz Bands; Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands*, Report and Order and Notice of Proposed Rulemaking, 18 FCC Rcd 1962, ¶ 265 (2003); *2007 Big LEO Spectrum Sharing Order*.

and substantial public interest benefits.¹⁶ TLPS deployment alone will quickly add 22 megahertz to the nation's wireless broadband spectrum inventory as American consumers utilize their smartphones, tablets, and other 802.11-enabled devices to receive this service. In particular, TLPS will help ease the increasing congestion that is diminishing the quality of Wi-Fi service at high-traffic 802.11 hotspots and other locations.¹⁷ By deploying additional 802.11-based capacity at 2.4 GHz, Globalstar and its terrestrial partners will be able to provide consumers with improved wireless broadband service, including faster data speeds and better Voice over Internet Protocol ("VoIP") functionality. In addition, TLPS deployments will deliver meaningful public safety benefits, since still-operating 802.11-based hotspots can provide broadband and voice communications to citizens who otherwise lack access to communications services during disasters. Iridium disregards these public interest benefits and appears intent on pursuing whatever regulatory maneuvers are necessary to impede Globalstar's competitive efforts.

¹⁶ Globalstar Petition at 21-22; Consolidated Reply of Globalstar, Inc., RM-11685, at 3-6 (Jan. 29, 2013).

¹⁷ See *Winning the Global Bandwidth Race: Opportunities and Challenges for Mobile Broadband*, Prepared Remarks of FCC Chairman Julius Genachowski, University of Pennsylvania – Wharton, Philadelphia, PA, at 11 (Oct. 4, 2012) (“*Genachowski Spectrum Speech*”) (“Wi-Fi networks [are] get[ting] more and more congested – have you tried using Wi-Fi in a busy airport recently?”), available at: <http://transition.fcc.gov/Daily_Releases/Daily_Business/2012/db1005/DOC-316661A1.pdf>; see also *FCC Chairman Julius Genachowski Announces Major Effort to Increase Wi-Fi Speeds and Alleviate Wi-Fi Congestion at Airports, Convention Centers, and in Homes with Multiple Devices and Users*, News Release, at 1 (rel. Jan. 9, 2013) (“*5 GHz Wi-Fi News Release*”) (“We all know the frustration of Wi-Fi congestion at conferences and airports. Today, the FCC is moving to bring increased speed and capacity to Wi-Fi networks by increasing the amount of unlicensed spectrum for Wi-Fi. As this spectrum comes on line, we expect it to relieve congested Wi-Fi networks at major hubs like convention centers and airports. It will also help in homes as tablets and smartphones proliferate and video use rises.”), available at: <http://transition.fcc.gov/Daily_Releases/Daily_Business/2013/db0109/DOC-318326A1.pdf>.

III. CONCLUSION

The Commission should summarily dismiss Iridium's unsupported and unjustified effort to annex additional Globalstar spectrum in the Lower Big LEO band without even placing its request on public notice. The Commission should reject Iridium's anti-competitive goals, deny Iridium's Motion to Consolidate, and expedite a rulemaking proceeding on fundamental MSS-terrestrial reform in the Upper Big LEO band. Granting Iridium's Motion would significantly delay the innovative, spectrum-efficient new services that promise substantial benefits for the American public.

Respectfully submitted,

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February 21, 2013

Certificate of Service

I hereby certify that on this 21st day of February, 2013, I caused a true and correct copy of the foregoing Opposition of Globalstar, Inc. to Motion to Consolidate to be mailed by first class U.S. mail to:

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